

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JONES,) **Case No. 3:19-cv-02087-B**
)
Plaintiff,) Dallas, Texas
) January 15, 2020
v.) 9:00 a.m.
)
REALPAGE, INC.,) MEMORANDUM OF LAW IN SUPPORT
) OF MOTION TO COMPEL
Defendant.) INTERROGATORY RESPONSES AND
) PRODUCTION OF DOCUMENTS [#79]
)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE IRMA CARRILLO RAMIREZ,
UNITED STATES MAGISTRATE JUDGE.

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1 DALLAS, TEXAS - JANUARY 15, 2020 - 8:58 A.M.

2 THE CLERK: All rise.

3 THE COURT: Good morning. Please be seated.

4 MR. ST. GEORGE: Good morning, Your Honor.

5 THE COURT: We are here in the matter of Diane D.
6 Jones, individually and on behalf of herself and all others
7 similarly situated, versus RealPage, Inc. doing business as
8 LeasingDesk Screening. This is Civil Action 3:19-cv-2087-B.
9 And before the Court this morning, pursuant to the District
10 Court's order of reference of December 9th, is the Memorandum
11 of Law in Support of Motion to Compel Interrogatory Responses
12 and Production of Documents, which has actually been narrowed,
13 so I have the parties' joint submission before me.

14 Would the parties please make their appearances for the
15 record?

16 MR. SOUMILAS: Your Honor, good morning. For the
17 Plaintiff, my name is John Soumilas. This morning with me are
18 my colleagues Amy Tabor and Donna Lee, also on behalf of the
19 Plaintiff.

20 MR. ST. GEORGE: Good morning, Your Honor. I'm
21 Timothy St. George for the Defendant. With me is my partner,
22 Virginia Flynn.

23 THE COURT: All right. And if you'll give me just a
24 moment to get my electronic file up.

25 (Pause.)

1 THE COURT: For purposes of our hearing this morning,
2 rather than have you make presentations from the podium, as is
3 customary in Federal Court, I'm going to ask both sides to
4 please remain seated. We are on the record. The proceedings
5 are being recorded. But I've got questions for both sides. I
6 think we can dispose of this matter more efficiently that way.
7 I have set aside one hour for today's hearing. So I've got
8 questions for both sides, and then I'll give you the
9 opportunity to present anything else that you would like for
10 me to consider before I make my ruling. And I will rule from
11 the bench this morning.

12 All right. So I am going to start with the Defense. And
13 Mr. St. George, will you be arguing on behalf of the
14 Defendant?

15 MR. ST. GEORGE: Yes, Your Honor.

16 THE COURT: All right. In this district, there are a
17 number of cases that have cited the Fifth Circuit's decision
18 in *McLeod* for the proposition that it is the party who resists
19 discovery that has the burden on the objections. Do you have
20 any authority to the contrary?

21 MR. ST. GEORGE: The only authority to the contrary
22 would be that there is some case law cited, including in
23 Plaintiff's motion to compel, that the party propounding has
24 to show that the information sought is proportional and
25 relevant under Rule 26(b). Well, of course, a party is only

1 allowed to seek discovery relevant to the claims in the case.
2 Regardless of the burden, we're happy to prove our point. But
3 in terms of Rule 26, that is a limitation that applies to the
4 propounding party.

5 THE COURT: Rule 26 doesn't expressly impose a burden
6 on the party seeking discovery to show relevance, does it?

7 MR. ST. GEORGE: It says the discovery has to be
8 relevant to a claim in defense of the case.

9 THE COURT: It says it has to be relevant, but who has
10 the burden to establish lack of relevance on an objection?

11 MR. ST. GEORGE: We're happy to assume that burden.

12 THE COURT: Okay. So you're not contesting that the
13 case law in our district that says -- if you'll give me just a
14 moment, I can give you the case cite. There are a number of
15 cases that cite it. (Pause.) All right. The case that I
16 most often cite to is *Merrill v. Waffle House, Inc.*, 227
17 F.R.D. 475, 477, citing *McLeod -- M-C-L-E-O-D -- Alexander*
18 *Powel & Apffel, A-P-F-F-E-L, P.C. v. Quarles, Q-U-A-R-L-E-S*,
19 894 F.2d 1482, 1485 (5th Cir. 1990). And there are a number
20 of cases, again, that cite that Fifth Circuit case for the
21 proposition that the party who opposes its opponent's
22 requests, discovery requests, must show specifically how each
23 request is not relevant or how each request is overly broad,
24 burdensome, or oppressive. So, we're going to go with that.

25 All right. Just to be sure that I didn't miss anything:

1 In reviewing the appendix in support of the joint submission,
2 I did not see an affidavit to support any objections. Did I
3 miss one?

4 MR. ST. GEORGE: There's no affidavit. The issues
5 here are facial with respect to the requests. We did mention
6 that we have exchanged information regarding the
7 quantification, the quantity of reports that would be issued.
8 I asked in the submission that we be allowed to present that
9 -- they're verified interrogatory responses. Asked in the
10 submission we be allowed to present those for *in camera* review
11 because they are highly confidential, and they provide some
12 context for the volume of data that has been requested. Those
13 interrogatories were served in this case back in June, but
14 they would provide the Court was some insight into the volume
15 of data that's being requested. But that is specific to the
16 requests for production, --

17 THE COURT: Well, --

18 MR. ST. GEORGE: -- not the interrogatories.

19 THE COURT: I remember seeing that in a footnote. I
20 don't remember specifically which footnote. Do you remember
21 which footnote number that was? And I remember you saying you
22 could submit it if I wanted.

23 MR. ST. GEORGE: Right.

24 THE COURT: But since it is your burden and I'm going
25 to be ruling today, my understanding of the case law is that

1 it should have been submitted if you wanted me to have
2 considered it *in camera* prior to determination.

3 MR. ST. GEORGE: Well, we are happy to submit it.

4 THE COURT: Too late. We're here at the hearing. I'm
5 ruling today.

6 MR. ST. GEORGE: Understood. Understood. We
7 mentioned that it would be submitted upon invitation. But
8 these numbers aren't going to be disputed in terms of the
9 volume of data.

10 But there's no affidavit. Again, the issues here are
11 largely facial with respect to the requests themselves and the
12 lack of relevance, tailoring, any tailoring, as well as the
13 obvious concerns that would arise with respect to a production
14 of hundreds of thousands of reports with highly confidential
15 consumer information in them.

16 THE COURT: Can you move the microphone a little
17 closer to you?

18 MR. ST. GEORGE: Yes.

19 THE COURT: Thank you.

20 MR. ST. GEORGE: Yes, Your Honor.

21 THE COURT: All right. Well, as I understood the
22 issues remaining, and I'm glad that the parties were able to
23 resolve some of the issues, what we've got left is
24 Interrogatory #15. Maybe. I'll ask about that.
25 Interrogatories 16 and 17. And while there was a reference to

1 Requests for Production Numbers 2 and 3, only #2 was
2 specifically addressed in the joint submission. So, did I
3 miss any issues?

4 MR. ST. GEORGE: No, Your Honor.

5 THE COURT: Did I miss any issues?

6 MR. SOUMILAS: No, Your Honor.

7 THE COURT: All right. So let's talk about 15. Did
8 the Defendant supplement its response by January 8th, as
9 represented in the joint submission?

10 MR. ST. GEORGE: So, we were -- we have not. We were
11 prepared to do that, and to put -- we actually had that in the
12 agreed order that we were going to submit to the Court, but it
13 was removed by the Plaintiff's counsel and they did not want
14 to include it. We are certainly prepared to supplement that
15 information, but we haven't done it yet because we're not sure
16 what issue remains and why we're here on that point.

17 THE COURT: Okay.

18 MR. ST. GEORGE: If there's some reason why our
19 proposed supplementations, the timeline or the pledge, is not
20 sufficient, we wanted to hash that out with the Court today.

21 THE COURT: Okay.

22 MR. ST. GEORGE: But from our opinion, there is no
23 substantive dispute remaining on this interrogatory. And that
24 is the interrogatory that is actually tailored to the class
25 definition, --

1 THE COURT: Right.

2 MR. ST. GEORGE: -- which is why we have promised to
3 respond and will respond. I do have preliminary data from the
4 client, and we should be able to make a response next week,
5 assuming that there is nothing further, apart from responding.

6 Again, without posturing, we're not really sure why that
7 dispute was -- was insisted on being included for today.

8 THE COURT: Well, as I read the joint submission -- I
9 don't know. The Plaintiff will tell me in a minute. But as I
10 read it, there were going to be two answers -- the current
11 answer is none, --

12 MR. ST. GEORGE: Uh-huh.

13 THE COURT: -- and either you were going to produce
14 something or say, We can't get it because there's no way to
15 find it through a "automatic query" --

16 MR. ST. GEORGE: Right.

17 THE COURT: -- of records.

18 MR. ST. GEORGE: Right.

19 THE COURT: So, to the extent that the Defendant was
20 going to say, We can't get it, --

21 MR. ST. GEORGE: That isn't --

22 THE COURT: -- that would be a reason to be here.

23 MR. ST. GEORGE: Right. And that is, based on the
24 preliminary data that I've seen back from the client, that is
25 not going to be the response. The response, based on the work

1 we've done over the holiday, will be a substantive response to
2 the interrogatory.

3 The answer was none because there was some confusion from
4 a definitional perspective. That was resolved in the meet-
5 and-confer process, and this is now underway and will be
6 supplemented.

7 THE COURT: Okay. So, does that address the
8 Plaintiff's concern on 15?

9 MR. SOUMILAS: So, Your Honor, the reason -- the
10 answer is no. The reason why 15 is still at issue are --
11 there are two reasons. One, there is a scheduling order in
12 this case, Your Honor, where we must meet certain deadlines,
13 including a certification motion by mid-April. So, without a
14 firm date, which we still don't have, or any data as to when
15 it would be coming, who will verify this interrogatory,
16 whether we'll get a shot to depose that person to test it, we
17 can't just put it in an agreed order and then not get it in
18 time.

19 THE COURT: Well, isn't that what we're here for? I
20 will set a deadline. First, we need to resolve the issues and
21 objections. So, I will impose a deadline by which any
22 response must be made. But as far as the substance of his
23 response, given that he has now informed the Court that there
24 will be a substantive response, would that -- does that
25 address the issue that was raised in the joint submission?

1 MR. SOUMILAS: So, the answer to that question is yes,
2 Your Honor.

3 THE COURT: Okay.

4 MR. SOUMILAS: That's why we raised it as an issue,
5 because we want a substantive response within a time frame
6 that we could work with with the Court's order. And assuming
7 we get that, then that will resolve 15.

8 THE COURT: Okay. All right. Let's move on to 15. I
9 mean, 16 and 17. As I understand the issue that's presented,
10 these interrogatories ask for information regarding subsets of
11 the class that's identified in the amended complaint, but
12 these were not identified as subclasses within the amended
13 complaint.

14 MR. SOUMILAS: That's correct.

15 THE COURT: All right. And the case law that you
16 provided me didn't specifically address the issue of
17 discovery, pre-certification discovery concerning subclasses
18 that were not identified.

19 MR. SOUMILAS: I don't know that we've cited a case
20 directly on that point, Your Honor, or that there is one.
21 However, in -- there are a couple of issues there. One is
22 that discovery under Rule 23 is governed by material that
23 could lead to admissible evidence, and certainly this could
24 lead to admissible evidence regardless of how a particular
25 complaint frames the class definition or a subclass.

1 Secondly, in class action practice, it is not the
2 definition in the complaint that governs. You frame your
3 definition at certification based on what the evidence shows.
4 And certainly we are not looking to get evidence beyond the
5 complaint. So this is not some new theory. This is a more
6 refined version of the same theory.

7 And if I might, Your Honor, just so that the Court is
8 fully aware of what we're doing here: We're looking for non-
9 matches, like Ms. Jones' case, where a criminal record does
10 not match the tenant applicant, even though it's on the
11 applicant's report. In the case of Ms. Jones, it was a
12 criminal record for a Toni Taylor, who has an alias of Tina
13 Jones. The year of birth of the two women is the same, but
14 not the date of birth.

15 Therefore, in trying to identify non-matches, the broadest
16 possible category is people whose criminal records doesn't
17 match because of their name. A subcategory is neither the
18 name nor the specific date of birth match. That's not a
19 broader category. It's a narrower, more refined category, and
20 frankly, we think one that has a much stronger inference to be
21 made that the record just belongs to a completely different
22 person, when we don't even have -- we have neither a name nor
23 a date of birth.

24 So, in our view, the date of birth interrogatories at 16
25 and 17 are simply a subset that could fit the definition of

1 this case. I don't know that it will be a subclass, Your
2 Honor. It could be the only class we move to certify. It
3 depends on what the data looks like, what the numbers look
4 like, how we could test their validity and so forth. But in
5 our view, it's clearly within the Rule -- the ambit of Rule
6 26.

7 And one final point there, Your Honor, is that we took the
8 Interrogatories 16 and 17 as a -- as an option in relation to
9 Request for Production 2. In other words, if they don't want
10 to do those searches for us, we think we could do them
11 ourselves. We know we could do them ourselves. We have --
12 now that we have the format that these documents are in, we
13 know that we could do them. So our view would be that they
14 should either answer those or give us the documents so that we
15 could get at the number of consumers who have not only a name
16 not matching precisely but also a date of birth that is not a
17 precise match.

18 So I think, Your Honor, our view is that it's a subset, a
19 more narrowly-tailored subset, and a highly relevant one here
20 that could be admissible.

21 THE COURT: All right. So I did my own research,
22 since the parties didn't give me anything, any case law on
23 point or that was close to it, or really, any legal argument
24 other than it's not relevant and contact information --
25 discovery that asks for contact information isn't fatal. So I

1 found one case out of the Northern District of California from
2 last year. *A-I-I-R-A-M, LLC v. KB Home*, 2019 WL 2896785, at
3 *3, where the Court noted that several of the discovery
4 requests sought to identify members of the putative class and
5 subclass, and it says how many members of any -- each class or
6 subclass had, noted that the courts generally permitted the
7 discovery, noted that the discovery requests appeared to
8 incorporate the class and subclass definitions of the amended
9 complaint, and found that, under the circumstances, it
10 concluded that, absent a more substantial showing, plaintiffs
11 may only obtain class-related discovery that is strictly
12 commensurate with their class and subclass definitions and
13 necessary to a determination of the existence, size, and
14 membership of the class and subclass, as set forth below.

15 So the Court was looking specifically at the definition of
16 the class and any subclasses. There's not any -- there aren't
17 any identified here. You've just got one class.

18 There was a case out of the Eastern District of Louisiana
19 which was very general, *Melder v. Allstate Corporation*, 2007
20 WL 9777975. In ruling on relevance disputes and the limited
21 scope of discovery imposed by the case management order, I
22 must consider the definitions of the class and subclass
23 proposed by plaintiffs in their class certification motion.

24 So that looked to the motion, but the couple of cases that
25 I found looking at discovery on class and subclasses looked at

1 what had been identified.

2 If I order production of information under Request #2,
3 isn't that going to allow you to identify these subclasses on
4 your own?

5 MR. SOUMILAS: So, the answer to that question, Your
6 Honor, is yes. I also think that we have two classes pled in
7 the amended class action complaint, a facially-inaccurate
8 record class and a confirmed non-match class. I think the
9 data that we're looking for in Interrogatories 16 and 17, and
10 also Document Request 2, is clearly within the definition of
11 (a), facially inaccurate. There's -- this is not a different
12 class, a different theory. I don't even know that I would
13 call it a subclass, Your Honor. It's just a question of, at
14 the time of certification, what exactly are going to be the
15 criteria so class members could objectively determine whether
16 they're in or out. And I think a date of birth could be one
17 of those criteria. It doesn't need to be in the definition,
18 Your Honor.

19 So I would just take -- I think the cases that Your Honor
20 has cited, we did not provide, but they don't sound at all
21 inconsistent with my understanding, which is that you could
22 take discovery that will formulate and identify the people in
23 your class. We think 16 and 17 will identify people in the
24 facially-inaccurate records class. And so will Document
25 Request #2.

1 THE COURT: Isn't some of this information already
2 going to be provided in response to the other discovery
3 requests? Because if I'm looking at proportionality, which I
4 am required to do *sua sponte*, if you're already getting this
5 information, then why do you need it separate -- a separate
6 number? If you're getting the underlying data, which is
7 something that you told me you wanted in your portion of the
8 joint submission, then why are these numbers specifically
9 needed?

10 MR. SOUMILAS: Yeah. So, Your Honor, that's an
11 excellent question, which begs the issue, I mean, why we're
12 here today. Because if they're willing to answer 15 and they
13 had given us this data two weeks ago and it adds up to our
14 experience and what we project, we probably wouldn't be here
15 at all.

16 The concern that I have is that we're going to get an
17 answer to 15 two weeks from now and it's going to say
18 something like it said before: None. Or, One. And that
19 makes no sense whatsoever, and I cannot prosecute this case
20 with just a bare answer like that.

21 That's why we took, you know, a couple of bites at the
22 apple. Let's look at the date of birth information. Let's
23 look at the records themselves. And we've talked for weeks as
24 to, is it appropriate to narrow the request for records or to
25 put more protections in place for privacy? We have no

1 interest in people's Social Security numbers or other private
2 information. We just want to see whether public criminal
3 records match the identities of people for whom they've
4 already sold third-party reports. So, Your Honor, our view on
5 this is that it depends. It depends. If 15 gives us that
6 answer, then we might not need very much more. I just don't
7 know because we haven't been able to get it for literally
8 months.

9 MR. ST. GEORGE: Your Honor, we'll -- we'll provide
10 that response to 15. I mean, and if what I'm hearing from Mr.
11 Soumilas is that if we respond to the interrogatories, I mean,
12 including 16 or 17, then that would terminate the issue, we
13 would be willing to compromise in that regard. In fact, it's
14 something we had in connection with the meet-and-confer, but
15 it was withdrawn.

16 And we do think that 16 and 17 are not subsets. In fact,
17 they don't -- they're not even coext... they have no relation
18 to the class that's pled in the complaint, which is defined by
19 a name. But if that is -- if that short-circuits this issue,
20 to provide the interrogatories, to have them verified, to make
21 the verifying witness go under a deposition for her sworn
22 testimony, and to modify the schedules -- we have no intention
23 of jamming them on a schedule; we just stipulated and Judge
24 Boyle entered a stipulation giving us more time while we work
25 these issues -- there's nothing further to discuss and we can

1 just resolve this.

2 I'm hearing a slightly different position today than we
3 did in the meet-and-confer. But if it's the interrogatories
4 that they want, more time, and a deposition of the verifying
5 witness, we'll do it.

6 THE COURT: All right. Well, I'm -- we're not here on
7 a deposition. I did not see anything about compelling a
8 deposition.

9 MR. ST. GEORGE: There is nothing to compel. Right.

10 THE COURT: All right. So I'm not clear on what it is
11 that you're saying on 16 and 17. Are you saying you're --
12 you're willing to answer these?

13 MR. ST. GEORGE: If that's -- if that is the
14 compromise position, that we will remove our objections to 16.
15 We -- we're not objecting to 15, which is the relevant
16 interrogatory. If we respond to 16 and 17, we verify them, we
17 provide them the substantive responses, and we make that
18 witness available for a deposition in short order but adjust
19 the schedule accordingly, and that resolves the pending motion
20 to compel, then we will do that.

21 THE COURT: Well, so you're saying you'll answ... I'm
22 not sure. You're --

23 MR. ST. GEORGE: Yes, we'll --

24 THE COURT: What I hear you saying is --

25 MR. ST. GEORGE: We will --

1 THE COURT: -- you'll answer 16 and 17 if you don't
2 have to provide --

3 MR. ST. GEORGE: Right. If it's the underlying data.
4 So the requests for production essentially fall away, we
5 provide the interrogatories, we verify them, we make a witness
6 available for a deposition, and that resolves the motion to
7 compel today, with the Plaintiffs reserving their rights if
8 somehow the witness isn't knowledgeable or what have you. If
9 that's the position that we're willing to enter into today,
10 then we'll do that.

11 Otherwise, we think we have a very principled position
12 that 16 and 17 don't relate to the class definition. You've
13 heard an outdated quotation of Rule 26. Likely to lead to
14 admissible evidence. It was amended. That's not the
15 standard.

16 THE COURT: Right.

17 MR. ST. GEORGE: Claims or defenses' relevance, which
18 is why the 2018 cases you've cited hold that way.

19 I'll also note we're here on our third complaint already
20 in this case, with shifting class definitions each time. So
21 this is not like we're at the beginning of this case and have
22 our first complaint and we're hearing a new theory.

23 But, as I've mentioned, compromise. We'll move on. The
24 parties will resolve this motion to compel. That's what I
25 believe I'm hearing from Plaintiff's counsel, and I think

1 that's the most efficient way to proceed.

2 MR. SOUMILAS: So, Your Honor, looking at our
3 position, has been this for weeks, which is: If they answered
4 all the interrogatories, we don't need the documents. I think
5 we could get the answers one way or the other.

6 The difficulty has been is that they have not answered
7 Interrogatories 15, 16, or 17 to date. So if the position
8 today is they will give meaningful answers -- not "None" or
9 "We can't get to it" -- and then we'll have an opportunity,
10 which is not before the Court as a motion to compel because
11 it's not there yet, but I hear Counsel offering a witness to
12 vet those answers, I think that's a reasonable position and we
13 don't need the production of tons of documents if
14 interrogatories will provide those answers. We'd rather do it
15 that way.

16 But just the concern that I have is that I haven't seen it
17 yet and I'm a little hesitant about just, you know, agreeing
18 to that without knowing what's in the box. But I think that's
19 a reasonable compromise. We need either the data or the
20 answers to interrogatories, because we're looking, at the end
21 of the day, for the same thing, which is just to identify
22 these people who don't have criminal records and who had them
23 on their reports.

24 So we could do it one way or the other.

25 MR. ST. GEORGE: Your Honor, I might suggest,

1 appending to your thoughts, that we set a deadline for a
2 response, we then set a status report or a -- I don't know how
3 Your Honor would typically handle these things, a conference
4 call or a joint submission to advise the Court, you know,
5 within ten days after that to schedule the deposition. If
6 there are any issues with the substance of the responses,
7 we'll highlight them.

8 My strong suspicion is that the status report will say
9 that the parties have provided the information, the deposition
10 is being scheduled, and there's nothing for the Court to do at
11 that time.

12 THE COURT: Well, I don't find status reports to be
13 that beneficial. And --

14 MR. ST. GEORGE: However you -- however --

15 THE COURT: -- it's an extra step for --

16 MR. ST. GEORGE: -- you want to handle it.

17 THE COURT: -- the parties and their clients who bear
18 the costs.

19 In a normal case, I would say produce -- I would order
20 production within 14 days. This is a class action, so I
21 understand that you may need a little longer. You said you
22 would be ready to produce next week on 15.

23 MR. ST. GEORGE: Right.

24 THE COURT: How long do you need to produce on 16 and
25 17?

1 MR. ST. GEORGE: You know, if we can have an extra
2 week, maybe.

3 And if, Your Honor, if it's just as -- if it's just as
4 well, you know, if we're entering into this compromise
5 position, maybe we could -- if we could agree to 15 within two
6 weeks, because I know that that's in process, and if we'd
7 agree to 16 and 17 within three weeks, that would be agreeable
8 to us.

9 And obviously, we're happy to accommodate the schedule. I
10 know that the Plaintiff's counsel had a deadline, for
11 instance, for expert disclosures relating to class
12 certification. We are happy to accommodate that as well, as
13 we always are in this case. There's no intention to jam
14 anyone.

15 THE COURT: All right. So, 14 days for 15, and 21
16 days for 16 and 17?

17 MR. ST. GEORGE: Yes.

18 THE COURT: And then, once you get that -- is that
19 sufficiently soon enough?

20 MR. SOUMILAS: That seems reasonable, Your Honor.
21 Thank you.

22 THE COURT: All right. And then if there are issues
23 with the production, then you can file another motion. You
24 know, Rule 37 provides for progressive motions. And once
25 there is an order, if you're contending that they failed to

1 comply with the order, then you move -- you move for sanctions
2 for failing to comply with the order.

3 All right. So, given their agreement to respond to 16 and
4 17 substantively within 21 days, that moots the motion as to
5 Request #2?

6 MR. SOUMILAS: So, I think -- I think so, Your Honor,
7 with the caveat that the Court just made, that if they don't
8 fully comply with what they just promised, we might need to be
9 back here. But I suspect we will not be.

10 THE COURT: All right. All right. So, on the
11 extension of time, that's really -- that's Judge Boyle's
12 scheduling order, but I understand that you've already
13 stipulated -- I think she typically allows you to stipulate to
14 extensions, as long as it doesn't push the big deadlines. So,
15 is this one that the parties can stipulate to?

16 MR. ST. GEORGE: Yes, I believe so. So, we're
17 operating within a fairly extended overall discovery period,
18 and the last stipulation was a 30-day extension. It didn't
19 affect the overall discovery period, because this all relates
20 to class certification. Judge Boyle entered it the next day,
21 I believe, without any consultation.

22 So we're happy to work together to do a stipulation. I
23 understand that that is the district judge's prerogative,
24 whether or not to do that. But I would hope and expect, as
25 long as we are -- especially in view of this production

1 timeline, that I don't think it would be an issue. And we've
2 never had any issues working out dates.

3 THE COURT: What I typically do is order the
4 production even if it -- if the production will occur outside
5 of the deadline, without otherwise disturbing the deadline.

6 MR. ST. GEORGE: Okay.

7 THE COURT: So that the district --

8 MR. ST. GEORGE: We'll --

9 THE COURT: It still remains the district judge's
10 deadline, --

11 MR. ST. GEORGE: Right.

12 THE COURT: -- but I can say, you know, I -- you have
13 to produce this, but it has to be produced by this date, even
14 though it's past the deadline.

15 MR. ST. GEORGE: Right. Okay. And we'll -- I'm sure
16 we can get a stipulation on file this week for the judge.

17 THE COURT: All right. So, motion to compel has been
18 resolved by agreement of the parties, and I will order
19 production of the response to Interrogatory 15 within 14 days
20 from today. And the relevance objection is withdrawn. That's
21 the only one that was briefed. And so I'll order production
22 as to Interrogatories 16 and 17 within 21 days of today's
23 date. And I always add "unless otherwise agreed by the
24 parties" to give you flexibility if anything comes up --

25 MR. ST. GEORGE: Okay.

1 THE COURT: -- for whatever reason. But it has to be
2 a joint agreement.

3 MR. ST. GEORGE: Okay.

4 THE COURT: And then the parties will stipulate on any
5 extension. And the motion is deemed moot as to #2, Request
6 #2. All right.

7 I didn't see an issue over fees or anything, so there's
8 nothing left to resolve. Is that correct? You weren't asking
9 for fees?

10 MR. SOUMILAS: That is correct, Your Honor. There is
11 nothing left to resolve for -- from our perspective today.

12 THE COURT: Okay.

13 MR. ST. GEORGE: Same here, Your Honor.

14 THE COURT: Okay. If there are any future discovery
15 disputes that I will be addressing, I will be going through
16 them request by request unless they're grouped together.
17 Sometimes the objections are the same and we can group some
18 together. And I will be addressing the objections that are in
19 the joint submission, and I'll be looking for case law from
20 both sides to help me get through it more quickly.

21 MR. SOUMILAS: Understood, Your Honor.

22 THE COURT: All right. Well, thank you very much.
23 Good luck to both sides. We are adjourned.

24 MR. ST. GEORGE: Thank you.

25 MR. SOUMILAS: Thank you.

1 THE CLERK: All rise.

2 (Proceedings concluded at 9:31 a.m.)

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CERTIFICATE

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I certify that the foregoing is a correct transcript from
the electronic sound recording of the proceedings in the
above-entitled matter.

23

/s/ Kathy Rehling

02/13/2020

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Kathy Rehling, CETD-444
Certified Electronic Court Transcriber

Date

INDEX

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROCEEDINGS

3

WITNESSES

-none-

EXHIBITS

-none-

RULINGS

24

END OF PROCEEDINGS

26

INDEX

27